

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Abraham R. MATTHEWS et al.	Examiner: BRUCKHART, Benjamin
App. No.: 09/663,483	Group Art Unit: 2155
Filed: September 13, 2000	Conf. No.: 2761
For: SWITCH MANAGEMENT SYSTEM AND METHOD	Docket No.: FORT-000600

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION TO THE DIRECTOR TO WITHDRAW HOLDING OF ABANDONMENT
37 C.F.R. 1.181 and MPEP 711.03(c)1

Sir:

The undersigned respectfully requests the erroneous holding of abandonment of the above-captioned patent application be withdrawn and the Appeal Brief submitted via EFS-Web on July 30, 2008 be acted upon.

Statement of Facts Involved

1. A final Office action was mailed in connection with the above-captioned application on October 18, 2007 (the “**Final Office Action**”).
2. The undersigned **timely responded** to the Final Office Action on March 18, 2008, by submitting via EFS-Web (i) a Response under 37 C.F.R. 1.116, (ii) a Petition for Extension of Time under 37 C.F.R. 1.136(a) for a two-month extension, (iii) a Notice of Appeal, (iv) a large entity fee of \$510 for the Notice of Appeal and (v) a

large entity fee of \$460 for the requested two-month extension of time (the **“Response After Final”**).

3. An Advisory Action was mailed in connection with the above-captioned application on April 11, 2008 indicating (i) the Response After Final failed to place the application in condition for allowance and (ii) acknowledging receipt of the Notice of Appeal.
4. A Notice of Abandonment was mailed in connection with the above-captioned application on June 4, 2008 indicating the application was abandoned in view of Applicant’s failure to timely file a proper reply to the Advisory Action (the **“Notice of Abandonment”**).
5. On June 29, 2008 (within the two-month period provided by 37 C.F.R. 1.181), the undersigned submitted via EFS-Web a “REQUEST FOR WITHDRAWAL OF ERRONEOUS NOTICE OF ABANDONMENT,” which substantially outlined the facts recited above (the **“Request”**).
6. On July 30, 2008, the undersigned timely filed (i) an Appeal Brief, (ii) a Petition for Extension of Time under 37 C.F.R. 1.136(a) for a three-month extension, (iii) a large entity fee of \$510 for filing a brief in support of an appeal and (iv) a large entity fee of \$1050 for the requested three-month extension of time.
7. On or about August 12, 2008, during a routine review of PAIR status information, the undersigned realized, despite the earlier filed Request, the application status for the above-captioned application still indicated “Abandoned – Failure to Respond to an Office Action.”

8. On or about August 13, 2008, the undersigned contacted Examiner Bruckart to discuss the status of the above-captioned application. Examiner Bruckart acknowledged that the Notice of Abandonment was mailed in error and instructed the undersigned to prepare a more formal Petition to Withdraw Holding of Abandonment.

CONCLUSION

In view of the timely filed Response After Final and this Petition to Withdraw Holding of Abandonment, which follows-up the earlier timely filed Request, the undersigned respectfully requests the Director to withdraw the Examiner's acknowledged erroneous holding of abandonment and to place the Appeal Brief in the Examiner's docket for prompt consideration.

Respectfully submitted,
HAMILTON, DESANCTIS & CHA

Date August 21, 2008

By: /Michael A. DeSanctis/
Michael A. DeSanctis, Esq.
Reg. No. 39,957
Customer No. 64128
Ph: (303) 856-7155